



# Journal of the House

State of Indiana

114th General Assembly

First Regular Session

Fifth Meeting Day

Tuesday Afternoon

January 11, 2005


The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Reverend David Leeder, First Church of the Nazarene, Kokomo, the guest of Representative John E. Smith.

The Pledge of Allegiance to the Flag was led by Representative J. Smith.

The Speaker ordered the roll of the House to be called:

T. Adams	Klinker
Aguilera	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer	J. Lutz
Becker	Mahern
Behning	Mays
Bischoff	McClain
Borders	Messer
Borror	Micon
Bottorff	Moses
Bright	Murphy
C. Brown	Neese
T. Brown	Noe
Buck	Orentlicher
Budak	Oxley
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Ulmer
Gutwein	VanHaaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 16: 97 present; 3 excused. The Speaker announced a quorum in attendance. [NOTE:  indicates those who were excused.]

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, January 13, 2005 at 1:30 p.m.

J. SMITH

Motion prevailed.

## INTRODUCTION OF BILLS

The following bills were read a first time by title and referred to the respective committees:

**HB 1050** — Torr (Rules and Legislative Procedures)  
A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

**HB 1131** — Kersey (Public Health)  
A BILL FOR AN ACT to amend the Indiana Code concerning health.

**HB 1132** — Kersey (Public Health)  
A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

**HB 1133** — Heim (Agriculture and Rural Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1134** — Heim, Messer (Education)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.

**HB 1135** — Heim, Austin (Government and Regulatory Reform)  
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

**HB 1136** — Heim, Austin (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

**HB 1139** — VanHaaften (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

**HB 1236** — Crooks (Commerce, Economic Development and Small Business)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

**HB 1265** — Pond (Government and Regulatory Reform)  
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

**HB 1266** — Pond, Ayres (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

**HB 1267** — Pond (Courts and Criminal Code)  
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

**HB 1268** — Pond, Cherry (Environmental Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

- HB 1269** — Pond (Courts and Criminal Code)  
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1270** — Pond, GiaQuinta, Moses (Courts and Criminal Code)  
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- HB 1271** — Pond (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.
- HB 1272** — Pond (Government and Regulatory Reform)  
A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.
- HB 1273** — Pond (Environmental Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- HB 1274** — Lehe (Employment and Labor)  
A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.
- HB 1275** — Lehe (Education)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1277** — Austin, Becker, Budak (Family, Children and Human Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning public safety.
- HB 1278** — Pond, Klinker (Education)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1279** — Wolkins (Environmental Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- HB 1280** — Wolkins (Environmental Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- HB 1281** — Wolkins (Environmental Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- HB 1282** — Foley, T. Harris (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1283** — Borrer, Dodge, Stutzman, Austin (Commerce, Economic Development and Small Business)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1284** — Frizzell, Buck (Insurance)  
A BILL FOR AN ACT to amend the Indiana Code concerning insurance.
- HB 1285** — Frizzell (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.
- HB 1286** — Woodruff, T. Brown (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1287** — Stevenson, Saunders (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1288** — Foley, Kuzman, Behning (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- HB 1289** — Thomas, Grubb (Employment and Labor)  
A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.
- HB 1290** — Yount, Klinker, Murphy, Day (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1291** — Yount, Klinker, Murphy, Day (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1292** — Whetstone, Oxley (Utilities and Energy)  
A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.
- HB 1293** — Whetstone, L. Lawson (Public Safety and Homeland Security)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1294** — Whetstone, Grubb (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning property.
- HB 1295** — Whetstone, T. Harris, Grubb (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1296** — Whetstone, Pelath (Public Policy and Veterans Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning gaming.
- HB 1297** — Whetstone, Goodin (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1298** — Whetstone, Austin (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1299** — Whetstone, Saunders (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1300** — Whetstone, Stevenson (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning property.
- HB 1301** — Saunders, Hinkle, Buell (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1302** — Gutwein, Friend, Grubb (Agriculture and Rural Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.
- HB 1303** — T. Brown (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1304** — Cochran, Buell, Kromkowski (Public Safety and Homeland Security)  
A BILL FOR AN ACT to amend the Indiana Code concerning pensions.
- HB 1305** — Borrer (Employment and Labor)  
A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.
- HB 1306** — Becker, C. Brown, Budak (Public Health)  
A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

- HB 1307** — Cheney (Roads and Transportation)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1308** — Pierce (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning property.
- HB 1309** — Pierce (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning property.
- HB 1311** — Grubb, Alderman, Micon, Koch (Employment and Labor)  
A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1032, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

WOLKINS, Chair

Report adopted.

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1033, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning the environment.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 13-11-2-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 46. "Council", for purposes of IC 13-21-2, IC 13-13-7, refers to the solid waste planning advisory council; environmental quality service council established by IC 13-13-7-1, unless the specific reference is to the legislative council.

SECTION 2. IC 13-13-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

#### Chapter 7. Environmental Quality Service Council

Sec. 1. The environmental quality service council is established.

Sec. 2. The council consists of seventeen (17) voting members and one (1) nonvoting member as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) The:

(A) commissioner of the department; or

(B) commissioner's designee;

who serves as a nonvoting member.

(4) Nine (9) individuals who are not members of the general assembly and who are appointed by the governor as follows:

(A) Two (2) individuals representing business and industry, not more than one (1) of whom may be affiliated with the same political party.

(B) Two (2) individuals representing local government, one (1) of whom may be a solid waste management district director and not more than one (1) of whom may be affiliated with the same political party.

(C) Two (2) individuals representing environmental

interests, one (1) of whom may be a solid waste management district director and not more than one (1) of whom may be affiliated with the same political party.  
(D) One (1) individual representing the general public.  
(E) Two (2) individuals representing the following interests:

(i) One (1) representative of semipublic permittees.

(ii) One (1) representative of agriculture.

Sec. 3. An appointment under section 2 of this chapter is valid for two (2) years after the date of the appointment. However, a member shall serve until a new appointment is made.

Sec. 4. (a) If a vacancy occurs among the members of the council, the appointing authority of the member whose position is vacant shall fill the vacancy by appointment.

(b) If the appointing authority does not fill a vacancy within sixty (60) days after the date the vacancy occurs, the vacancy shall be filled by appointment by the chairman of the legislative council.

Sec. 5. The chairman of the legislative council shall designate a legislative member of the council to be the chair of the council.

Sec. 6. The chair of the council shall call for the council to meet at least one (1) time during a calendar year. The chair may designate committees of the council to meet between council meetings and report back to the full council.

Sec. 7. The council shall do the following:

(1) Study issues designated by the legislative council.

(2) Advise the commissioner on policy issues decided on by the council.

(3) Review the mission and goals of the department and evaluate the implementation of the mission.

(4) Serve as a council of the general assembly to evaluate:  
(A) resources and structural capabilities of the department to meet the department's priorities; and  
(B) program requirements and resource requirements for the department.

(5) Serve as a forum for citizens, the regulated community, and legislators to discuss broad policy directions.

(6) Do the following concerning energy matters:

(A) Investigate methods to increase research, development, production, and use of alternative fuels, including:

(i) biofuels such as biodiesel, ethanol, and other agricultural based alternatives to petroleum based fuels;

(ii) clean coal technology;

(iii) wind and solar power; and

(iv) other sources of renewable energy.

(B) Give priority consideration to review of energy projects and policies that will provide maximum economic and environmental benefits to Indiana.

(C) Submit recommendations to:

(i) the legislative council;

(ii) the commissioner of agriculture;

(iii) the department of commerce; and

(iv) legislative committees that have subject matter jurisdiction over energy matters.

The recommendations to the legislative council must be in an electronic format under IC 5-14-6.

(7) Submit an annual report to the legislative council, in an electronic format under IC 5-14-6, that contains at least the following:

(A) An outline of activities of the council.

(B) Recommendations for department action.

(C) Recommendations for legislative action.

Sec. 8. The commissioner shall report to the council each month concerning the following:

(1) Permitting programs and technical assistance.

(2) Proposed rules and rulemaking in progress.

(3) The financial status of the department.

(4) Additional matters requested by the council.

Sec. 9. The legislative services agency shall provide staff support to the council and panel.

Sec. 10. The council shall operate under the rules of the legislative council.

SECTION 3. IC 13-21-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Revisions of the state plan must be

- (1) developed with the advice of the solid waste planning advisory council established by IC 13-21-2-1; and
- (2) implemented using the procedures set forth in section 1 of this chapter.

SECTION 4. P.L.248-2001, SECTION 4, IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 5. [EFFECTIVE JULY 1, 2005] (a) Until an appointment is made under IC 13-13-7-2(4)(A) through IC 13-13-7-2(4)(E), all as added by this act, a vacant position on the environmental quality service council shall be held by the corresponding member of the environmental quality service council serving on January 1, 2005, who was appointed under P.L.248-2001, SECTION 4(d)(4) to represent the same interest as must be represented by the person appointed to the vacant position.

(b) The appointing authorities under IC 13-13-7-2, as added by this act, shall make the appointments required by IC 13-13-7-2 before August 1, 2005.

(c) This SECTION expires December 31, 2005.

(Reference is to HB 1033 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

WOLKINS, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1129, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

THOMAS, Vice Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1130, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 10, delete "including;" and insert "**including**".

Page 1, line 11, delete "(A)".

Page 1, run in lines 10 through 11.

Page 1, delete lines 12 through 15, begin a new line double block indented and insert:

**"(A) involving foreclosure of the prior lien or encumbrance; or**

**(B) that otherwise affects the lien or encumbrance of the state;"**

Page 1, delete lines 16 through 17.

Page 2, delete line 1.

Page 3, delete lines 35 through 41.

Delete page 4.

(Reference is to HB 1130 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

THOMAS, Vice Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1153, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 23, line 27, delete "or" and insert "**and**".

(Reference is to HB 1153 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

THOMAS, Vice Chair

Report adopted.

#### OTHER BUSINESS ON THE SPEAKER'S TABLE

Representative Summers, who had been excused, was present.

#### HOUSE MOTION

Mr. Speaker: I move that Representative Koch be removed as author of House Bill 1024, Representative Walorski be substituted as author, and Representative Koch be added as coauthor.

KOCH

Motion prevailed.

#### Reassignments

The Speaker announced the following reassignments:

House Bill 1095 from the Committee on Education to the Committee on Insurance.

House Bill 1223 from the Committee on Education to the Committee on Courts and Criminal Code.

#### Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bills 1032 and 1129 had been referred to the Committee on Ways and Means.

#### ENGROSSED HOUSE BILLS ON THIRD READING

##### Engrossed House Bill 1003

Representative Borrer called down Engrossed House Bill 1003 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning economic development and to make an appropriation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 17: yeas 79, nays 19. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Ford.

##### Engrossed House Bill 1004

Representative Turner called down Engrossed House Bill 1004 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 18: yeas 61, nays 36. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Kenley.

##### Engrossed House Bill 1083

Representative Murphy called down Engrossed House Bill 1083 for third reading:

A BILL FOR AN ACT to repeal a provision of the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 19: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed

to inform the Senate of the passage of the bill. Senate sponsors: Senators Alting, Kenley, and Simpson.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1056, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-42-5.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:  
Sec. 3. This chapter does not apply to the following:

- (1) Hospitals licensed under IC 16-21.
- (2) Health facilities licensed under IC 16-28.
- (3) Housing with services establishments that are required to file disclosure statements under IC 12-10-15.
- (4) Continuing care retirement communities required to file disclosure statements under IC 23-2-4.
- (5) Community mental health centers (as defined in IC 12-7-2-38).
- (6) Private mental health institutions licensed under IC 12-25.
- (7) An area agency on aging designated under IC 12-10-1 that provides food under a nutrition service program. However, the premises where the food is prepared is not exempt from the requirements under this chapter."**

Page 1, line 16, delete "The" and insert "**Except for food that is prepared on site, the**".

Renumber all SECTIONS consecutively.  
(Reference is to HB 1056 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

BECKER, Chair

Report adopted.

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1069, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 15, delete "chapter;" insert "**chapter, including reasonable monitoring and reporting requirements;**".

(Reference is to HB 1069 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

BECKER, Chair

Report adopted.

## OTHER BUSINESS ON THE SPEAKER'S TABLE

### HOUSE MOTION

Mr. Speaker: I move that Representatives T. Harris and Ruppel be added as coauthors of House Bill 1024.

WALORSKI

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representatives Bright, Goodin, and Stutzman be added as coauthors of House Bill 1027.

RUPPEL

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Hoffman be added as coauthor of House Bill 1108.

BISCHOFF

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representatives Bardon and Kuzman be added as coauthors of House Bill 1129.

FOLEY

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Kuzman be added as coauthor of House Bill 1130.

FOLEY

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Behning be added as coauthor of House Bill 1150.

J. LUTZ

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Kuzman be added as coauthor of House Bill 1153.

FOLEY

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative T. Harris, the House adjourned at 3:55 p.m., this eleventh day of January, 2005, until Thursday, January 13, 2005, at 1:30 p.m.

BRIAN C. BOSMA

Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives